

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

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UNITED STATES OF AMERICA,

Plaintiff,

No. 1:22-CR-29

vs.

Hon. Robert J. Jonker

BRENDON GAGNE and  
JOSHUA FORD,

Defendants.

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**BRIEF IN SUPPORT OF DEFENDANTS' SECOND UNOPPOSED MOTION  
FOR ENDS OF JUSTICE CONTINUANCE**

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Defendants have moved the Court pursuant to Rule 23.2 of the Local Criminal Rules of this Court and the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, to continue for a period of at least 90 days the final pretrial conference and trial, now set for October 31, 2022 and November 15, 2022 respectively, to a date on or after February 15, 2023. Defendants also request that if a continuance is granted, that the final pretrial conference be set for a date that is at least four weeks prior to the new trial date.

This is the second request for an adjournment. The government does not oppose the request

The Court's recent ruling on the dispositive motion precipitates additional discussion, evaluation, and preparation for trial. In addition, as suggested by the Court at the hearing on the dispositive motion, this is a case where it could benefit the Court and the parties to hold the final pretrial conference farther in advance of the trial date than usual. As currently scheduled, there is inadequate time to move

the final pretrial conference to an earlier date while still meaningfully meeting the various requirements for filings in advance of the final pretrial conference and plea deadlines.

Brendon Gagne and Joshua Ford are both charged in Count 1 of the Indictment with Conspiracy to Smuggle Goods into the United States, contrary to 18 U.S.C. §§ 371, 545. Mr. Gagne is also charged in Count 2 with Money Laundering Conspiracy, contrary to 18 U.S.C. §§ 1956(h), (a)(1)(A)(i), (a)(1)(B)(i). There are five defendants named in the Indictment. Mr. Ford and Mr. Gagne are the only two defendants who have not pled guilty and remain pending trial.

All five original defendants joined in the first unopposed motion for an ends of justice continuance. That request was premised largely on the volume of discovery. Motion, RE44, PageID147-151. The Court granted the motion and set the matter for a November trial date, a date that was recently moved out one week to accommodate the government's unopposed request to adjourn the hearing on the dispositive motion. Motion Adjourn, RE72, PageID242-243; Order, RE76, PageID 247.

The hearing on the dispositive motion was held on October 4, 2022. The resolution of the motion, and in particular some of the discussion surrounding resolution of the motion, impacts trial strategy and the presentation of defenses. Counsel would like additional time to confer, strategize and prepare in light of those rulings and discussions.

In addition, the defendants agree with the Court's observation that holding the final pretrial conference farther in advance of trial than the standard two weeks in

anticipation of complexities with jury instructions and the like could help trial preparation. As currently scheduled, there is inadequate time to distance the final pretrial conference date from the trial date and still be prepared to meet the Court's requirements for filings prior to the final pretrial conference with high quality work. We are also mindful of the government's plea negotiation policy and the Court's policy in its standing order about the U.S.S.G. § 3E1.1(b) reduction and would be unable to meet those deadlines, should we need to, with the current trial date if we move the final pretrial conference to an earlier date.

Finally, a 90-day adjournment is an extended period. But undoubtedly, the Court's calendar and the calendars of four lawyers are likely full enough within the next 60 days that a trial date after February 15, 2023 has a higher likelihood of being workable for all. Assistant United States' Attorney Stephanie Carowan states that: "90 days is fine from our perspective, though I would note that I am scheduled to be in trial the week of Feb. 6, so either late February or early March might be preferable."

Dated: October 6, 2022

Respectfully submitted,

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